

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

DECISION AND ORDER
23-CR-16-A

ISHAQ IKHARO,

Defendant.

This case was referred to Magistrate Judge Jeremiah J. McCarthy pursuant to 28 U.S.C. § 636(b)(1) for the conduct of pretrial proceedings. On February 28, 2023, Defendant Ishaq Ikharo appeared by videoconference before Magistrate Judge McCarthy and entered a plea of guilty to a 1-count Information (Dkt. No. 28), which charges him with possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B) and § 2252A(b)(2).

Magistrate Judge McCarthy issued a Report and Recommendation (Dkt. No. 33) confirming his oral findings that Defendant's plea of guilty was knowing, voluntary, and supported by a factual basis. No timely objections to the Report and Recommendation have been filed. It is hereby

ORDERED that, upon review of the plea agreement (Dkt. No. 29); plea transcript (Dkt. No. 36) of the February 28, 2023, change-of-plea proceeding before the Magistrate Judge; and the Report and Recommendation, the Court finds that all the requirements of Federal Rule of Criminal Procedure 11 have been carefully followed. Defendant's plea of guilty was knowing, voluntary, and supported by a factual basis. The Magistrate Judge informed Defendant, who was placed under oath and addressed

personally via videoconference, of Defendant's rights and the trial rights he was waiving should the Court accept his plea of guilty, the nature of the charge to which he was pleading guilty, and any maximum possible penalty, among the other requirements listed in the Rule. The Magistrate Judge determined that Defendant understood the foregoing. Accordingly, Defendant's plea of guilty is accepted based upon the oral findings of the Magistrate Judge as confirmed in the written Report and Recommendation.

Magistrate Judge McCarthy also recommends granting Defendant's unopposed motion (Dkt. No. 25, Dkt. No. 35 [supplemental affirmation]) for bail pending sentencing, based on Defendant's "severe physical limitations and medical needs[.]"¹ Moreover, defense counsel made an informal request to the Court to schedule a status conference to address Defendant's anticipated motion pursuant to Federal Rule of Criminal Procedure 20 to transfer the sentencing to the Northern District of California, where Defendant resides.

As previously directed, the parties are to appear for an in-person status conference on April 4, 2023, at 11:00 a.m., to address the possible Rule 20 motion and how this may impact the scheduling of a sentencing date, and the apparently unopposed motion to continue Defendant's bail pending sentencing. Defendant's appearance is waived for the April 4, 2023 proceeding.

¹ To clarify, at the conclusion of the change-of-plea proceeding, Judge McCarthy continued Defendant's release on bail, and recommended that upon review of the case by this Court said release would be continued up until the time of sentencing. See Dkt. No. 36, pp. 23-24.

IT IS SO ORDERED.

s/Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: April 3, 2023
Buffalo, New York